

SENATE BILL NO. 318

INTRODUCED BY J. PETERSON, JACKSON, GEBHARDT, WILLIAMS, JORE, LAKE, RICE, BARKUS,  
BLASDEL, BRUEGGEMAN, W. JONES, TAYLOR

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING MONTANA'S RECREATIONAL USE STATUTE TO  
PROVIDE LIMITED LIABILITY TO PRIVATE LANDOWNERS WHO PROVIDE AIRSTRIPS FOR THE PUBLIC  
WITHOUT VALUABLE CONSIDERATION; AMENDING SECTIONS 70-16-301 AND 70-16-302, MCA; AND  
PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 70-16-301, MCA, is amended to read:

**"70-16-301. Recreational purposes defined.** "Recreational purposes", as used in this part, includes  
hunting, fishing, swimming, boating, waterskiing, camping, picnicking, pleasure driving, ~~private, noncommercial~~  
~~flying of aircraft,~~ biking, winter sports, hiking, touring or viewing cultural and historical sites and monuments,  
spelunking, or other pleasure expeditions. THE TERM INCLUDES THE PRIVATE, NONCOMMERCIAL FLYING OF AIRCRAFT  
IN RELATION TO PRIVATE LAND."

**Section 2.** Section 70-16-302, MCA, is amended to read:

**"70-16-302. (Temporary) Restriction on liability of landowner.** (1) A person who uses property,  
including property owned or leased by a public entity, for recreational purposes, with or without permission, does  
so without any assurance from the landowner that the property is safe for any purpose if the person does not give  
a valuable consideration to the landowner in exchange for the recreational use of the property. The landowner  
owes the person no duty of care with respect to the condition of the property, except that the landowner is liable  
to the person for any injury to person or property for an act or omission that constitutes willful or wanton  
misconduct. For purposes of this section, valuable consideration does not include the state land recreational use  
license fee imposed under 77-1-802 or other funds provided under 77-1-815.

(2) As used in this part, the following definitions apply:

(a) (i) "Airstrip" means improved or unimproved landing areas ON PRIVATE LAND used by pilots to land,  
park, take off, unload, load, and taxi aircraft.

1 (ii) The term does not include municipal airports governed under Title 67, chapter 10, part 1.

2 (B) "FLYING OF AIRCRAFT" MEANS THE OPERATION OF AIRCRAFT, INCLUDING BUT NOT LIMITED TO LANDING,  
3 PARKING, TAKING OFF, UNLOADING, LOADING, AND TAXIING OF AIRCRAFT AT AN AIRSTRIP.

4 ~~(b)(c)~~ "Landowner" "Landowner" means a person or entity of any nature, whether private, governmental,  
5 or quasi-governmental, and includes the landowner's agent, tenant, lessee, occupant, grantee of conservation  
6 easement, water users' association, irrigation district, drainage district, and persons or entities in control of the  
7 property or with an agreement to use or occupy property.

8 ~~(3)(c)(D)~~ As used in this part, "property" "Property" means land, roads, airstrips, water, watercourses,  
9 and private ways. The term includes any improvements, buildings, structures, machinery, and equipment on  
10 property.

11 ~~(4)(3)~~ The department of fish, wildlife, and parks, when operating under an agreement with a landowner  
12 or tenant to provide recreational snowmobiling opportunities, including but not limited to a snowmobile area,  
13 subject to the provisions of subsection (1), on the landowner's property and when not also acting as a snowmobile  
14 area operator on the property, does not extend any assurance that the property is safe for any purpose, and the  
15 department, the landowner, or the landowner's tenant may not be liable to any person for any injury to person  
16 or property resulting from any act or omission of the department unless the act or omission constitutes willful or  
17 wanton misconduct. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

18 **70-16-302. (Effective on occurrence of contingency) Restriction on liability of landowner.** (1) A  
19 person who uses property, including property owned or leased by a public entity, for recreational purposes, with  
20 or without permission, does so without any assurance from the landowner that the property is safe for any  
21 purpose if the person does not give a valuable consideration to the landowner in exchange for the recreational  
22 use of the property. The landowner owes the person no duty of care with respect to the condition of the property,  
23 except that the landowner is liable to the person for any injury to person or property for an act or omission that  
24 constitutes willful or wanton misconduct. For purposes of this section, valuable consideration does not include  
25 the state land recreational use license fee imposed under 77-1-802.

26 (2) As used in this part, the following definitions apply:

27 (a) (i) "Airstrip" means either improved or unimproved landing areas ON PRIVATE LAND used by pilots to  
28 land, park, take off, unload, load, and taxi aircraft.

29 (ii) The term does not include municipal airports governed under Title 67, chapter 10, part 1.

30 (B) "FLYING OF AIRCRAFT" MEANS THE OPERATION OF AIRCRAFT, INCLUDING BUT NOT LIMITED TO LANDING,

1 PARKING, TAKING OFF, UNLOADING, LOADING, AND TAXIING OF AIRCRAFT AT AN AIRSTRIP.

2 ~~(b)(c)~~ "landowner" "Landowner" means a person or entity of any nature, whether private, governmental,  
3 or quasi-governmental, and includes the landowner's agent, tenant, lessee, occupant, grantee of conservation  
4 easement, water users' association, irrigation district, drainage district, and persons or entities in control of the  
5 property or with an agreement to use or occupy property.

6 ~~(3)(c)(D)~~ As used in this part, "Property" means land, roads, airstrips, water, watercourses,  
7 and private ways. The term includes any improvements, buildings, structures, machinery, and equipment on  
8 property.

9 ~~(4)(3)~~ The department of fish, wildlife, and parks, when operating under an agreement with a landowner  
10 or tenant to provide recreational snowmobiling opportunities, including but not limited to a snowmobile area,  
11 subject to the provisions of subsection (1), on the landowner's property and when not also acting as a snowmobile  
12 area operator on the property, does not extend any assurance that the property is safe for any purpose, and the  
13 department, the landowner, or the landowner's tenant may not be liable to any person for any injury to person  
14 or property resulting from any act or omission of the department unless the act or omission constitutes willful or  
15 wanton misconduct."

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17 ~~NEW SECTION. Section 3. Two-thirds vote required.~~ Because [section 2] limits governmental liability,  
18 Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of  
19 the legislature for passage.

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21 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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